

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 L-02 AID-05 CIAE-00 COME-00 EB-07

FRB-01 INR-07 NSAE-00 RSC-01 TRSE-00 XMB-04 OPIC-06

SP-02 CIEP-02 LAB-04 SIL-01 OMB-01 STR-04 PA-02 PRS-01

USIA-15 /076 W

----- 014930

R 101800Z DEC 74

FM AMEMBASSY LA PAZ

TO SECSTATE WASHDC 5049

INFO AMEMBASSY LIMA

UNCLAS LA PAZ 8077

LIME FOR: FULLMER

E.O. 11652: N/A

TAGS: ECON, EINV, EFIN, BL

SUBJ: REINVESTMENT REQUIREMENT

REF: STATE 251673: LA PAZ 7598

1. SUMMARY: REGULATORY DECREE (STILL UNNUMBERED BECAUSE NOT YET SIGNED) FOR ART. 7 OF DECREE 11947 (SEE REFTELS) ON NEW REINVESTMENT REQUIREMENT WAS APPROVED BY CABINET ON DECEMBER 6 AND WAS PUBLISHED IN NEWSPAPERS OVER WEEKEND. REGULATORY DECREE REQUIRED THAT ALL PRIVATE SECTOR BUSINESSES REINVEST MINIMUM OF 50PERCENT OF LIQUID PROFITS EACH YEAR BEGINNING IN 1974 AND CONTINUING THROUGH 1980. BUSINESSES REINVESTING ONLY 50PERCENT WILL PAY FULL INCOME TAX BUT THOSE REINVESTING GREATER AMOUNTS WILL PAY REDUCED INCOME TAXES ON BASIS OF SLIDING SCALE. U.S. FIRMS AND INVESTMENTS APPEAR TO BE EXEMPTED. END SUMMARY.

2. REGULATORY DECREE LISTS NUMBER OF EXCEPTIONS TO REINVESTMENT REQUIREMENT IN ART. 5. THOSE THAT APPEAR TO BE MOST IMPORTANT TO U.S. FIRMS ARE:

D) THOSE THAT HAVE INSTALLED THEMSELVES IN THE COUNTRY

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UNDER SPECIAL AGREEMENTS BETWEEN THE STATE AND THE ENTERPRISE.

E) THOSE OF THE PETROLEUM, GAS, AND ELECTRICAL ENERGY SECTORS BECAUSE THEY ARE SUBJECT TO SPECIFIC EXISTING LEGISLATION.

F) THOSE THAT HAVE INITIATED ACTIVITIES UNDER THE INCENTIVES OF DECREE LAW NO. 07366 OF OCTOBER 20, 1965 (AN EARLIER INVESTMENT PROMOTION LAW WHICH COVERS THE MINING SECTOR AS WELL AS OTHERS) AND OF THE INVESTMENT LAW NO. 10045 OF DECEMBER 10, 1971, WHICH FALL UNDER THIS OBLIGATION IN THE YEAR FOLLOWING THAT IN WHICH THEIR BENEFITS TERMINATE.

G) THE FOREIGN INVESTMENTS THAT LOCATE IN BOLIVIA UNDER THE COMMON REGIMEN FOR TRETMENT OF FOREIGN CAPITAL, THE SAME WHICH FALL UNDER THE DECISION NO. 24 OF THE CARTAGENA AGREEMENT.

H) THE BENEFITS OF EXCEPTION EXTEND TO FIRMS WHOSE APPLICATION FOR REIGSTRY WAS PRESENTED TO THE NATIONAL INVESTMENT INSTITUTE BEFORE THE DATE OF PROMULGATION OF DECREE LAW 11947 OF NOVEMBER 9, 1974, PROVIDED THAT THE APPLICATION UNDER CONSIDERATION IS FAVORABLY DECIDED BY THE NATIONAL INVESTMENT INSTITUTE.

I) THE FOREIGN INVESTMENTS NOT SUBJECT TO DECISION 24 OF THE CARTAGENA AGREEMENT MAY REGISTER THE ORIGINAL INVESTMENT WITH THE NATIONAL INVESTMENT INSTITUTE AND THEY WILL BE EXCLUDED FROM THE REACH OF THIS DECREE UNTIL THEY HAVE REPATRIATED ABROAD IN THE FORM OF DIVIDENDS THE ORIGINAL AMOUNT OF THE REGISTERED INVESTMENT. ONCE THAT AMOUNT HAS BEEN REPATRIATED THEY WILL BE SUBJECT TO THIS DECREE."

3. VERY SMALL AND TRANSITORY FIRMS (THOSE CREATED FOR A SPECIFIC TRANSACTION) ARE ALSO EXEMPT FROM THE REINVESTMENT REQUIREMENTS.

4. COMMENT: THE EXCEPTION CLAUSES APPEAR TO EXEMPT VIRTUALLY ALL U.S. FIRMS NOW OPERATING IN BOLIVIA FROM THE REINVESTMENT REQUIREMENT. MINING FIRMS DO NOT PAY AN INCOME TAX. FOREIGN BANKS ARE PROHIBITED BY BANKING LAW FROM REMITTING ANY DIVIDENDS UNTIL THEY HAVE BUILT UP THEIR CAPITAL AND RESERVES TO PRESCRIBED LEVELS. AS BOTH U.S. BANKS ARE STILL REINVESTING TO MEET THESE CAPITAL REQUIREMENTS, REGULATORY DECREE BENEFITS THEM BY ALLOWING INCOME TAX REDUCTION. MINISTER FOR PLANNING AND COORDINATION ESTIMATED TOTAL INVESTMENT REQUIREMENT AT US\$ 16 MILLION IN 1974. THERE IS CONSIDERABLE DEBATE ON WHETHER FIRMS WILL TEND SHOW LARGER PROFITS THAN BEFORE AND REINVEST MORE THAN 50PERCENT IN ORDER TO LIM
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THEIR INCOME TAX LIABILITY BY ANOTHER ROUTE. (IF A FIRM REINVESTS 100PERCENT OF ITS PROFITS IT PAYS ONLY 30PERCENT OF ITS INCOME TAX LIABILITY.) REGULATORY DECREE NOW BEING STUDIED BY COMPANY LAWYERS. FURTHER COMMENT WILL BE PROVIDED AS SOON AS EMBASSY CAN OBTAIN LAWYERS' OPINIONS. TEXT BEING SENT BY AIRGRAM.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, INVESTMENT LAW, PRESS COMMENTS, FOREIGN INVESTMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 10 DEC 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974LAPAZ08077
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740358-0659
From: LA PAZ
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741247/aaaabomd.tel
Line Count: 114
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: STATE 251673: LA PAZ 7598
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 26 SEP 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 SEP 2002 by ReddocGW>; APPROVED <04 FEB 2003 by MorefiRH>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: REINVESTMENT REQUIREMENT
TAGS: ECON, EINV, EFIN, BL
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005